

REMARKS

Claims 1-16 have been cancelled without prejudice or disclaimer; claims 17, 24, 27, 28, and 29 have been amended; and 30 has been added; and claims 17-30 are pending and under consideration. No new matter is presented in this Amendment.

OBJECTIONS TO THE CLAIMS

The Examiner states that should claims 25 and 26 be found allowable, that "claims 25 and 26 will be objected to under 37 C.F.R. 1.75 as being" substantial duplicates. Applicants respectfully traverse such statement. Since claims 25 and 26 have not yet been indicated as allowable, it is believed that any arguments as to such claims not being substantial duplicates would be premature.

As such, it is respectfully requested that Applicants be allowed to address any 37 C.F.R. 1.75 issues remaining once the rejections of the claims under 35 U.S.C §103 are resolved.

Claim 24 has been objected to as being allowable but for being dependent upon a rejected base claims. Claim 24 has been amended to independent form. Thus, it is respectfully requested that such rejection be withdrawn and that claim 24 be allowed to issue.

REJECTIONS UNDER 35 U.S.C. §103:

Claims 17-23 and 25-27 are rejected under 35 U.S.C. §103(a) as being unpatentable over Osakabe (U.S. Patent No. 6,894,961), Maeda et al. (U.S. Patent No. 6,072,759), and Akaha Kentaro (JP 2000-293931).

With regard to **claim 17**, the combination of Osakabe in view of Maeda et al. and in further view of Kentaro is inappropriate as there is no suggestion or motivation to combine such references. Osakabe addresses preventing the recording of data on an optical disc at speeds beyond predetermined limit values unique to the optical disc so as to minimize errors in the recording of data on the optical disc. Osakabe at col. 1, lines 35-38. Maeda et al. addresses using copyright information to prevent unauthorized copying of the data recorded on a disc. Maeda et al. at claim 1. Kentaro addresses historically preserving data associated with a disc upon reproduction, and using such data if a disc has been previously reproduced, wherein, if a disc has not been previously reproduced, the maximum reproducing speed is read therefrom to prevent reproduction errors. Kentaro, at Abstract. However, each of these individual applications/patents solves their respective problems without addressing or providing any

suggestion or motivation to combine their respective individual inventions to provide for compatibility of recording and reproducing between an information storage medium and a drive based on different standards by recording, as reproduction-only data in a reproduction-only area, maximum recording speed information, minimum recording speed information, maximum reproducing speed information, and minimum reproducing speed information, which are used to indicate speed capabilities to a drive. As there is no suggestion or motivation to combine, such combination of references cannot render obvious the invention as recited in claim 17. Additionally, such combination of references is reliant upon impermissible hindsight and using knowledge beyond that which was present at the time of invention. Thus, it is respectfully requested that such rejections be withdrawn and that claim 17 be allowed to issue.

Because **claims 18-23, and 25-26** depend from independent claim 17 and incorporate the features thereof, claims 18-23, and 25-26 are patentable for at least similar reasons as independent claim 17. Thus, it is respectfully requested that the rejections of claims 18-23, and 25-26 be withdrawn and that such claims be allowed to issue.

With regard to **claim 27**, the Examiner fails to state a prima facie case of obviousness as Osakabe, by the Examiner's admission at page 3, does not address maximum and minimum reproducing speed information. As such, Osakabe does not disclose that "the drive system reads out the maximum recording speed information, the minimum recording speed information, the maximum reproducing speed information, and the minimum reproducing speed information and the drive system records and/or reproduces data according to the maximum recording speed information, the minimum recording speed information, the maximum reproducing speed information, and the minimum reproducing speed information." Further, the combination of references is inappropriate as discussed above with reference to claim 17. Thus, it is respectfully requested that such rejection be withdrawn and that claim 27 be allowed to issue.

Claim 28 is rejected under 35 U.S.C. §103(a) as being unpatentable over Osakabe (U.S. Patent No. 6,894,961), Maeda et al. (U.S. Patent No. 6,072,759), Akaha Kentaro (JP 2000-293931) and Komoda et al. (U.S. Patent No. 6,701,063). As described above with respect to claim 17, the Examiner has failed to state a prima facie case of obviousness as Osakabe only addresses "disk-applicable-recording-speed information" (Col. 5, line 45) and not that "the maximum recording speed information, the minimum recording speed information, the maximum reproducing speed information, and the minimum reproducing speed information are recorded in

at least one byte of the reproduction-only area." Further, the Examiner states that Maeda et al. discloses "wherein the data includes recording speed information and/or reproducing speed information (column 9, lines 35-39)." However, at such lines, Maeda et al. only discloses a "minimum lead-out rate" and not that "the maximum recording speed information, the minimum recording speed information, the maximum reproducing speed information, and the minimum reproducing speed information are recorded in at least one byte of the reproduction-only area."

And, Maeda et al. and Kentaro fail to cure the deficiencies of Osakabe as there is no suggestion or motivation to combine such references. Further, the addition of Komoda et al. does not overcome the deficiencies of Osakabe in view of Maeda et al. in further view of Kentaro with regard to the maximum and minimum recording speed information and the maximum and minimum reproducing speed information. Moreover, such combination of references is merely piece-meal construction using impermissible hindsight as described above with respect to claim 17. As such, it is respectfully requested that such this rejection be withdrawn and that claim 28 be allowed to issue.

Claim 29 is rejected under 35 U.S.C. §103(a) as being unpatentable over Osakabe (U.S. Patent No. 6,894,961), Maeda et al. (U.S. Patent No. 6,072,759), Akaha Kentaro (JP 2000-293931) and Okada et al. (U.S. Patent No. 6,148,140). As described above with respect to claim 17, the Examiner has failed to state a *prima facie* case of obviousness as Osakabe only addresses "disk-applicable-recording-speed information" (Col. 5, line 45) and not that "the maximum recording speed information, the minimum recording speed information, the maximum reproducing speed information, and the minimum reproducing speed information are recorded in at least one byte of the reproduction-only area." And, Maeda et al. and Kentaro fail to cure the deficiencies of Osakabe as there is no suggestion or motivation to combine such references as described above with respect to claim 17. Further, the addition of Okada et al. does not overcome the deficiencies of Osakabe in view of Maeda et al. in further view of Kentaro with regard to the maximum and minimum recording speed information and the maximum and minimum reproducing speed information. Moreover, such combination of references is merely piece-meal construction using impermissible hindsight. As such, it is respectfully requested that such this rejection be withdrawn and that claim 29 be allowed to issue.

Based on the foregoing, this rejection is respectfully requested to be withdrawn.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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